

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 3163 – SB 3591

May 24, 2010

SUMMARY OF AMENDMENTS (018058, 018398, 018782): Deletes all language of the original bill. Deletes effective date of March 28, 2011, when sole proprietors and partners engaged in the construction industry will be required to carry workers' compensation coverage on themselves and replaces it with March 1, 2011. Creates a procedure for sole proprietors, partners in a limited partnership or limited liability partnership, officers of corporations, and members of limited liability companies engaged in the construction industry to file for an exemption from obtaining workers' compensation insurance to cover themselves. Authorizes the Secretary of State to charge a maximum fee of \$100 for a construction services provider registration or renewal and \$100 for a construction services provider workers' compensation exemption. Creates the Workers' Compensation Employee Misclassification Education and Enforcement Fund (WCEMEEF) to be administered by the Commissioner of Labor and Workforce Development. Requires that any fee collected shall be deposited in the WCEMEEF. Requires all costs of the Secretary of State associated with the administration of this bill as amended be paid from the WCEMEEF. Authorizes the use of remaining funds for education of employers and employees and in support of investigation and prosecution of employee misclassification, subject to appropriation by the General Assembly. Creates a taskforce to study issues relative to employee misclassification and workers' compensation. Beginning in FY12-13 and each fiscal year thereafter, the taskforce shall make recommendations to the General Assembly regarding the allocation of the WCEMEEF. Amendment 018398 terminates the taskforce on June 30, 2013, unless continued by the General Assembly.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$150,000/General Fund

Decrease State Revenue –

\$46,600/FY10-11/General Fund

\$4,600/FY10-11/Tennessee Occupational Safety and Health Act
(TOSHA)

\$523,900/FY11-12 and Subsequent Years/General Fund

\$52,300/FY11-12 and Subsequent Years/TOSHA

Increase State Expenditures – \$212,400/One-Time/General Fund

\$246,400/Recurring/General Fund

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue –

Net Impact – \$26,100/FY10-11/General Fund

\$2,300/Recurring/Earmarked for the Department of State

**\$712,500/FY10-11 and biennially thereafter/ Workers' Compensation
Employee Misclassification Education and Enforcement Fund
(WCEMEEF)**

Decrease State Revenue – Net Impact –

**\$4,600/FY10-11/Tennessee Occupational Safety and Health Act
(TOSHA)**

\$451,200/FY11-12 and Subsequent Years/General Fund

\$52,300/FY11-12 and Subsequent Years/TOSHA

Increase State Expenditures –

\$374,800/FY10-11/WCEMEEF

\$304,400/FY11-12 and Subsequent Years/WCEMEEF

Assumptions applied to amendments:

- According to the Department of State, approximately 2,375 construction service providers do not have a license issued by the Board and will apply to be listed on the Workers Compensation Exemption Registry which will be valid for two years at a total fee of \$200 each. Approximately 2,375 do have a license issued by the Board and will apply to be listed on the Workers Compensation Exemption Registry at a total fee of \$100 each. The total increase to biennially recurring state revenue will be \$712,500 $[(2,375 \times \$100) + (2,375 \times \$200)]$.
- According to the Department of State, approximately 400 additional business entities would register with the Secretary of State every year. An increase to state revenue of \$75,000 from registration fees. Three percent (\$2,300) of fee revenue is allocated to the Department of State and 97 percent (\$72,700) is allocated to the General Fund.
- According to the Department of State, computer programming expenditures associated with this bill as amended will increase one-time state expenditures by \$209,700 $[(507 \text{ Business Analysis IT Pro hours} \times \$80.19 \text{ per hour}) + (1,690 \text{ Program Coding} \times \$100 \text{ per hour})]$.
- An increase to recurring state expenditures of \$12,000 for printing, envelopes, and postage and a recurring increase to state expenditures of \$5,800 for Web services (\$480 per month). The total increase to recurring state expenditures will be \$17,800.
- According to the Department of Labor and Workforce Development, the Department currently investigates 900 requests for investigations into workers' compensation premium deductions from wages.
- According to the Department of Labor and Workforce Development, one additional Workers' Compensation Specialist 4 position at a salary of \$57,500 and benefits of \$19,600, three Workers' Compensation Specialist 1 positions at a salary of \$35,000 and benefits of \$11,900 each (one in each grand division), and one Administrative Assistant 3 position at a salary of \$28,700 and benefits of \$9,800 will be needed in order to investigate the additional requests. Other recurring expenditures associated with five additional employees will be \$30,300. The total increase to recurring state expenditures will be \$286,600. In FY10-11, the recurring expenditures for new positions will begin one month before the March 1 effective date. The total increase to recurring state expenditures in FY10-11 will be approximately \$119,400.

- One-time costs associated with the five new positions will be \$28,000 (office supplies and computer equipment).
- The total increase to state expenditures in FY10-11 from the WCEMEEF will be \$374,800. The total increase to recurring state expenditures beginning in FY11-12 will be \$304,400.
- Under current law, certain sole proprietors and partners engaged in the construction industry are not required to carry workers' compensation insurance until March 28, 2011. Beginning March 28, 2011 these workers would be required to carry workers' compensation insurance and pay premium taxes of four percent plus a 0.04 percent surcharge for TOSHA.
- Based on information provided by the Department of Commerce and Insurance, the exemption of individuals carrying workers' compensation insurance will result in a recurring decrease in state revenue of approximately \$700,000 beginning March 28, 2011. The total decrease in FY10-11 will be \$175,000; approximately \$15,900 is earmarked for TOSHA and \$159,100 is from the General Fund. The total decrease in FY11-12 and subsequent years is \$636,400 from the General Fund and \$63,600 from TOSHA.
- It is estimated that 500 additional policies will be purchased by individuals not eligible for exemption, on an average payroll of \$37,500 and an average policy rate of 15 percent will result in an increase to recurring state revenue of approximately \$123,800. Approximately \$11,300 is earmarked for TOSHA and \$112,500 will be deposited into the General Fund.
- The net impact in FY10-11 will be an increase to state revenue of \$26,100 (\$112,500 + \$72,700 - \$159,100) to the General Fund and a decrease to state revenue of \$4,600 (\$15,900 - \$11,300) to TOSHA.
- The net impact in FY11-12 and subsequent years will be a \$451,200 (\$636,400 - \$112,500 - \$72,700) decrease to recurring state revenues in the General Fund and a decrease of \$52,300 (\$63,600 - \$11,300) to TOSHA.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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